

REMARKS

Claims 1-15 pending. Claim 17 has been withdrawn pending the Examiner's action to the instant response. Claim 16 has been cancelled. Claims 2 and 10 have been amended.

The Examiner imposed a restriction requirement in the instant application. The Examiner asserts that the claims of the instant application include three groups as follows:

- Group I: Claims 1-15, drawn to bicyclic oligopeptide compound, classified in class 514.
- Group II: Claim 16, drawn to a method of using the bicyclic oligopeptide for the preparation of a medicament, classified in class 514, subclass 10.
- Group III: Drawn to a method of treating diabetes mellitus, classified in class 514 subclass 10.

In response to that restriction requirement, applicants hereby elect with traverse to prosecute in this application the subject matter of Group I, claims 1-15. Applicant also elect the single disclosed species of claim 10 for prosecution under the requirements of 35 U.S.C. §121. The claims readable thereon are claims 1-15 and 17.

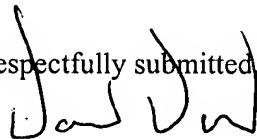
Claim 10 has been amended to provide the definition for R which was inadvertently omitted. Support for this amendment can be found in the specification at page 6, line 14 and no new matter has been added. Claim 16 has been cancelled removing Group II from consideration. Applicants submit that Groups I and III are sufficiently related such that the search for relevant art for one Group would be expected to uncover prior art that is relevant to the other Group, since Group I and Group III involve substantially the same components. Thus, a search for relevant art and subsequent examination would not be an undue burden on the Examiner and restriction should be withdrawn. M.P.E.P. §803. It is therefore respectfully requested that the Examiner withdraw the restriction of Groups I and III. Applicants reserve the right to prosecute

in one or more divisional applications whatever subject matter is not examined or allowed here.

Applicant also respectfully submits that the Examiner has not met the burden of identifying a basis for distinguishing groups I and III. The inventions can be shown distinct if either point can be shown 1) the process for using the product as claimed can be practiced with another materially different product or 2) the product as claimed can be used in a materially different process of using that product. Point (1) is not satisfied since method claim 17 recites the use of a "bicyclic oligopeptide according to claim 1." The Examiner states that in the instant case, the method of treating the diabetes mellitus by administering therapeutically effective amounts of bicyclic peptide can be accomplished using insulin peptide instead. Examiner does not provide a basis for concluding that Insulin is a "bicyclic oligopeptide according to claim 1" as required by the instant claim. The Examiner also does not address point 2.

If the Examiner feels that a telephone interview would be helpful in advancing prosecution of this application, the Examiner is invited to contact the attorney below.

Applicant request that any subsequently filed reply requiring a petition for an extension of time for its timely submission be treated as if it incorporated such petition for an extension of time pursuant to the provisions of 37 C.F.R. § 1.136(a)(3) and hereby authorizes that any fees due in connection therewith be charged to Deposit Account No. 02-2955.

Respectfully submitted


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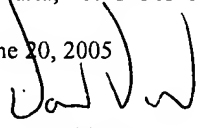
Serial No.: 10/621,272

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on June 20, 2005

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